

CAPITOL OFFICE
STATE CAPITOL, ROOM 5108
SACRAMENTO, CA 95814
TEL (916) 651-4022
FAX (916) 327-8817

DISTRICT OFFICE
1808 W. SUNSET BLVD.
LOS ANGELES, CA 90026
TEL (213) 483-9300
FAX (213) 483-9305

California State Senate

SENATOR
KEVIN DE LEÓN
CHAIR

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SB 39 (De León)

Protecting Taxpayers from Unscrupulous Public Officials

PURPOSE: Protects local agencies from frivolous lawsuits filed by felons against local governments for disallowed pension benefits.

BACKGROUND:

Local governments need to be protected from avaricious public officials who take advantage of the public's trust by unlawfully increasing their pensions. These individuals perceive the public treasury as a public channel, and if the applicable public retirement system does in fact determine misreporting of salary in order to boost retirement benefits, there should be consequences.

For example, the City of Vernon's city administrator Bruce Malkenhorst left his position in 2005 after prosecutors charged him with corruption. He worked for the city for 29 years and made as much as \$911,000 a year. He was one of the highest paid city employees in the country. After later being convicted with corruption, he still walked away with California's largest pension of more than \$500,000 a year. When the state found that Malkenhorst obtained the pension improperly, CalPERS cut his benefits to \$115,000 because it said Vernon improperly reported Malkenhorst's pay.

Malkenhorst is now shamelessly suing Vernon claiming that the city should restore the money cut by CalPERS. He believes he is entitled to the more than \$500,000 yearly pension and that the city should keep its promise to pay him what was promised originally. A promise he essentially made to himself as the undisputed "boss" of Vernon.

It is pertinent that in order to assure local governments are safeguarded from claims filed by these disgraced public officials, there is statutory recognition that the only avenue of appeal these individuals can pursue is through the applicable public retirement system and not the city.

PROPOSAL:

- Requires that local public officers who have been convicted of felonies for conduct arising out of his or her official duties will forfeit any contract right or claim against a local public agency employer to retirement benefits.
- This measure applies to any claim filed prior to the effective date of the enacting this section, and still pending on that date, and any claim started after that date.

For more information, please contact Diana Crofts-Pelayo, at (916) 651-4022, or Diana.Crofts-Pelayo@sen.ca.gov. Version 9/12/13.